

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID A. GONZALES,

Plaintiff,

v.

No. CV 15-0378 MCA/KBM

BERNALILLO COUNTY DISTRICT COURT, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER DENYING MOTION TO REOPEN

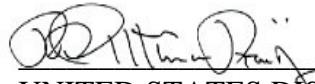
This matter is before the Court on Plaintiff's letter (Doc. 7) filed on July 13, 2015, and entered on the docket as a motion to reopen (the "motion"). By order entered on May 6, 2015, the Court ordered Plaintiff to cure certain filing deficiencies, and on June 25, 2015, the Court dismissed Plaintiff's action for failure to cure. In his motion, Plaintiff alleges that he received the May 6 cure order on July 1 and sent a response to the Court. Attached to the motion is a partial inmate account statement, which is the document that the cure order required. He states that he wishes to refile his allegations. The Court will deny the motion.

A plaintiff whose case has been dismissed may move under rule 60(b) of the Federal Rules of Civil Procedure to reopen the case. *Burns v. C.I.A.*, No. 93-5153, 1994 WL 36770, at *1 (10th Cir. Feb. 8, 1994) (construing a motion to reopen as a rule 60(b) motion). Grounds for relief under rule 60(b) include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, void judgment, satisfaction of judgment, and any other reason that justifies relief. *See Fed. R. Civ. P.* 60(b)(1-6). "[M]otions considered under Rule 60(b) must be shaped to the grounds 60(b) lists as possible bases for relief. Such motions cannot be mere general pleas for relief." *Helm v. Resolution Trust Corp.*, 43 F.3d 1163, 1167 n. 2 (7th Cir. 1995).

Here, Plaintiff alleges that he did not timely receive the cure order. Nothing on the docket

indicates that Plaintiff notified the Court of his changes of address. The Court of Appeals for the Tenth Circuit has affirmed a district court's denial of a motion to reopen under the circumstances presented here. *See Kobel v. Lansing Correctional Facility*, 577 F. App'x 844, 845 (10th Cir. 2014) ("nothing prevented Mr. Kobel from apprising the district court of his new location or inquiring about the status of his lawsuit"). Plaintiff's motion does not assert adequate grounds for relief under rule 60(b), and the Court will deny the motion.

IT IS THEREFORE ORDERED that Plaintiff's letter (Doc. 7) filed on July 13, 2015, and construed as a motion to reopen, is DENIED.



UNITED STATES DISTRICT JUDGE